

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FILED
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PER

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ELIJAH WASHINGTON,

Plaintiff,

v.

WARDEN, DAUPHIN COUNTY
PRISON, et al.,

Defendants.

CIVIL ACTION NO. 3:13-CV-2820

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, THIS 10th DAY OF DECEMBER, 2013, IT APPEARING TO
THE COURT THAT:

(1) Plaintiff, Elijah Washington, a prisoner confined at the State Correctional Institution- Houtzdale, Pennsylvania, filed the instant civil rights action pursuant to 42 U.S.C. §1983 on November 18, 2013. The plaintiff's complaint is based on incidents which occurred while plaintiff was housed at the Dauphin County Prison;

(2) The action was assigned to Magistrate Judge Martin C. Carlson for Report and Recommendation;

(3) On November 20, 2013, the Magistrate Judge issued a Report and Recommendation (Doc. 5) wherein he recommended that the plaintiff's complaint be dismissed without prejudice and that the plaintiff be given an opportunity to file an amended complaint;

(4) Specifically, the Magistrate Judge found that plaintiff failed to allege sufficient facts to give rise to a claim of supervisory liability against the prison warden; that plaintiff's complaint fails to set forth a valid Eighth Amendment claim for deliberate indifference to a serious medical need; that plaintiff's request for injunctive relief is moot since he is no longer confined at the Dauphin County Prison; and that the plaintiff's claims for a specific sum of unliquidated damages should be stricken;

(5) On December 4, 2013, plaintiff filed a document captioned "Amended Complaint and Objections" (Doc. 6), wherein he requests an opportunity to proceed with this action;

(6) We have considered the Magistrate Judge's Report and we concur with his recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Martin C. Carlson dated November 20, 2013 (Doc. 5) is **ADOPTED**;

(2) The plaintiff's motion for leave to proceed in forma pauperis (Doc. 2) is **GRANTED**;

(3) The plaintiff's complaint is **DISMISSED** without prejudice;

(4) Plaintiff is allowed twenty (20) days from the date of this Memorandum and Order in which to file an Amended Complaint; and

(5) The above-captioned action is remanded to the Magistrate Judge for further proceedings.



Edwin M. Kosik
United States District Judge